

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
SIXTH DIVISION

In Re:

Jeffery Howard Schake, fdba
Sudden Impact Auto Body, and
Teresa Ilene Schake,

Debtors.

Chapter 7

Bky. Case No. 04-61024 DDO

**NOTICE OF HEARING AND MOTION FOR
RELIEF FROM THE AUTOMATIC STAY**

TO: DEBTORS ABOVE-NAMED AND OTHER PARTIES IN INTEREST SPECIFIED
IN LOCAL RULE 9013-3.

1. Wachovia Bank, N.A., formerly known as First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust 2001-4 ("Wachovia"), by its undersigned attorney, moves the Court for the relief requested below and gives notice of hearing herewith.

2. The Court will hear Wachovia's motion at 1:00 p.m. on September 28, 2004, or as soon thereafter as counsel can be heard, in Courtroom 2 of the United States Bankruptcy Court, U.S. P.O. Building, 118 South Mill Street, Fergus Falls, Minnesota, 56537.

3. Any response to this motion must be filed and delivered not later than September 23, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than September 17, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. Sections 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1070-1. This is a core proceeding. On August 30, 2004, a petition commencing this Chapter 7 case was filed by the Debtors. This case is now pending in this Court.

5. This motion arises under 11 U.S.C. §362(d) and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2. Wachovia requests that it be granted relief from the automatic stay of 11 U.S.C. Section 362(a) to permit it to foreclose a certain mortgage held by it.

6. On August 14, 2001, Debtor Jeff Schake executed and delivered to Long Beach Mortgage Company a promissory note in the original principal amount of \$145,000.00. The note requires the payment of initial monthly installments of \$1,408.33 of principal and interest. The total present monthly payment under the note, including the escrow deposit, is \$2,149.48. A true and correct copy of this note is attached hereto as Exhibit A.

7. On August 14, 2001, Debtors executed and delivered to Long Beach Mortgage Company a mortgage to secure the payment of the promissory note on the following described real property in Polk County, Minnesota:

Lot 9, Block 3, Riverview Third Addition to the City of East Grand Forks, Minnesota, EXCEPT that part of Lot 9, Block 3 of Riverview 3rd Addition to the City of East Grand Forks, Minnesota according to the plat thereof on file and of record in the office of the County Recorder, Polk County, Minnesota described as follows: Commencing at the southeasterly corner of said Lot 9, thence northwesterly along the southerly line of said Lot 9 having a grid bearing of North 72 degrees 55 minutes 55 seconds West a distance of 194.61 feet to the point of beginning; thence continuing North 72 degrees 55 minutes 55 seconds West along said southerly line a distance of 166.33 feet to the southwesterly corner of said Lot 9; thence

North 24 degrees 36 minutes 24 seconds East along the westerly line of said Lot 9 a distance of 274.14 feet to the northwesterly corner of said Lot 9; thence South 42 degrees 04 minutes 50 seconds East along the northerly line of said Lot 9 a distance of 220.33 feet; thence southwesterly a distance of 172.72 feet along a curve not tangent to the last described line concave to the southeast having a radius of 250.00 feet and a central angle 39 degrees 35 minutes 06 seconds and the chord of said curve bears south 37 degrees 23 minutes 09 seconds West to the point of beginning.

Said mortgage was filed for record August 20, 2001, as Document No. 585860 in the office of the County Recorder of Polk County, Minnesota. A true and correct copy of this mortgage is attached hereto as Exhibit B.

8. The mortgage was thereafter assigned to Wachovia by assignment dated April 29, 2004, recorded May 7, 2004, as Document No. 613118. A true and correct copy of this assignment of mortgage is attached hereto as Exhibit C.

9. Debtors have defaulted in the payment of the promissory note and mortgage by failing to make the monthly payments due from and after November 1, 2003. The total amount in default, including late charges, prior foreclosure legal fees and costs and property inspection fees, as of September 28, 2004, is \$26,149.99, in addition to the attorney's fees and costs incurred by Wachovia in pursuing this motion.

10. There is due and owing under the promissory note and mortgage, as of September 28, 2004, an unpaid principal balance of \$143,461.85, accrued interest of \$16,096.08, late charges of \$1,029.61, a negative escrow balance of \$7,082.23, prior foreclosure legal fees and costs of \$1,747.40 and property inspection fees of \$191.40, for a total due of \$169,608.57, in addition to the attorney's fees and costs incurred by Wachovia in pursuing this motion. In addition, according to Debtors' bankruptcy

schedules, there is a second mortgage against the property which is held by David A. Beste and which has an approximate balance due of \$15,000.00.

11. According to Debtors' bankruptcy schedules, the current market value of the subject property is \$180,000.00.

12. Debtors have made no offer of adequate protection under 11 U.S.C. §361.

13. Pursuant to Local Rule 9013-2, Wachovia gives notice that it may, if necessary, call Heather Potee, the Assistant Vice President of Long Beach Mortgage Company, 9451 Corbin Avenue, Northridge, California, 91324, to testify regarding the indebtedness and collateral value.

14. A separate memorandum of facts and law is submitted with the motion as required by Local Rule 9013-2.

WHEREFORE, Wachovia hereby moves the Court for an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay to permit Wachovia to foreclose that certain above described mortgage and for such other and further relief as the Court deems just and equitable.

Dated: September 14, 2004.

MURNANE, CONLIN, WHITE & BRANDT
PROFESSIONAL ASSOCIATION
Attorneys for Movant

By /e/ Ricardo Figueroa
RICARDO FIGUEROA (#0282224)
444 Cedar Street, Suite 1800
St. Paul, Minnesota 55101
Telephone (651) 227-9411

VERIFICATION

I, Heather Pitee, the Asst. Vice President
of Long Beach Mortgage Company, attorney in fact for Wachovia Bank, N.A., formerly
known as First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust
2001-4, declare under penalty of perjury that Paragraphs 6 through 13 of the foregoing
Notice of Hearing and Motion for Relief from the Automatic Stay are true and correct
according to the best of my knowledge, information, and belief.

DATED: September 8, 2004.

Heather Pitee



LOAN NO. 9788969-30833

FIXED/ADJUSTABLE RATE NOTE

(LIBOR Index - Rate Caps)

THIS NOTE PROVIDES FOR A CHANGE IN MY FIXED RATE TO AN ADJUSTABLE INTEREST RATE. THIS NOTE LIMITS THE AMOUNT MY ADJUSTABLE RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

August 14, 2001
[Date]

ORANGE
[City]

CA
[State]

1601 SE 8TH STREET
EAST GRAND FORKS, MN 56721
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 145,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is

LONG BEACH MORTGAGE COMPANY

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 11.250 %. The interest rate I will pay may change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the first day of each month beginning on October 1, 2001

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on September 1, 2031, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at: P.O. Box 1093, Northridge, CA 91328

or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. \$ 1,408.33. This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of September, 2004, and on that day every 6th month thereafter. Each date on which my adjustable interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of the London interbank offered rates for six month dollar deposits in the London market based on quotations at five major banks ("LIBOR"), as set forth in the "Money Rates" section of *The Wall Street Journal*, or if the Money Rates section ceases to be published or becomes unavailable for any reason, then as set forth in a comparable publication selected by the Lender. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding Five and Three Fourths percentage point(s) (5.750 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

MINNESOTA FIXED/ADJUSTABLE RATE NOTE - LIBOR

EL 4140345 (8902)
41403451 (03/31/01) PC

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ELECTRONIC LASER FORMS, INC. • (800)327-0845

EXHIBIT

A

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 14.250 % or less than 11.250 %. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than One percentage points (1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 17.250 %, which is called the "Maximum Rate" or less than 11.250 % which is called the "Minimum Rate".

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my adjustable interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

If I make a partial prepayment, whether voluntarily or involuntarily, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial prepayment may reduce the amount of my monthly payments after the first Change Date following my partial prepayment.

If within 3 years [not to exceed forty-two (42) months] from the date of execution of the Security Instrument I make a full prepayment or, in certain cases a partial prepayment, whether voluntarily or involuntarily, I will at the same time pay to the Note Holder a prepayment charge. The prepayment charge will be equal to the lesser of two percent (2%) of the unpaid principal balance then due under this Note or sixty (60) days' interest on the unpaid principal balance then due under this Note.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of FIFTEEN calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal that has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses that might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

(A) Until my initial fixed rate changes to an adjustable interest rate under the terms stated in Section 4 above, Uniform Covenant 17 of the Security Instrument provides as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

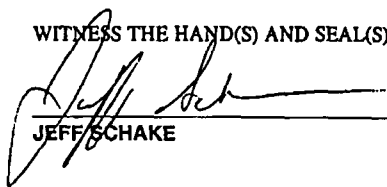
(B) When my initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section 4 above, Uniform Covenant 17 of the Security Instrument described in Section 11(A) above shall then cease to be in effect, and Uniform Covenant 17 of the Security Instrument shall instead provide as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.


JEFF SCHAKE

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

[Sign Original Only]

MINNESOTA FIXED/ADJUSTABLE RATE NOTE - LIBOR

585860

When recorded, mail to:

LONG BEACH MORTGAGE COMPANY
P.O. BOX 201085
STOCKTON, CA 95202

Loan No. 9788969-30833

wm 44198976

No. 66903

Registration tax herein of \$ 333.50

Paid this 26th day of August 2001

Norald J. Amist
County Auditor-Treasurer

by Cedric Morris
Deputy/Clerk

00019718

[Space Above This Line For Recording Data]

MORTGAGE

POLK COUNTY RECORDER
POLK COUNTY, MINNESOTA

I hereby certify that within instrument was filed in
this office for record on the 20 day of AUGUST,
2001 9 o'clock AM and duly
recorded as Dec. #

Marlene Hanson 585860
MARLENE HANSON, County Recorder

By Deputy

YJ Alush

3000
CB

19798

19724

THIS MORTGAGE ("Security Instrument") is given on August 14, 2001
The mortgagor is JEFF SCHAKE AND THERESA SCHAKE, HUSBAND AND WIFE

("Borrower"). This Security Instrument is given to LONG BEACH MORTGAGE COMPANY

which is organized and existing under the laws of the State of Delaware, and whose
address is 1100 TOWN & COUNTRY ROAD, ORANGE, CA 92868

("Lender"). Borrower owes Lender the principal sum of
One Hundred Forty Five Thousand and no/100-----

Dollars (U.S. \$ 145,000.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which
provides for monthly payments, with the full debt, if not paid earlier, due and payable on
September 1, 2031 and for interest at the yearly rate of 11.250

percent. This Security Instrument secures to Lender: (a) the repayment of
the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the
payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security

MINNESOTA-Single Family-FNMA/FHLMC UNIFORM INSTRUMENT

VMP-6H(MN) (9803)

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VMP MORTGAGE FORMS - (800)521-7297

Form 3024 9/90

Amended 12/93

Initials: JJA JSD



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Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in POLK County, Minnesota:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

which has the address of 1601 SE 8TH STREET, EAST GRAND FORKS [Street, City],
Minnesota 56721 [Zip Code] ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 *et seq.* ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time

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File No. 01-10211

SCHEDULE C

The land referred to is situated in the State of Minnesota, County
of Polk, and is described as follows:

Lot Nine (9), Block Three (3), Riverview Third Addition to the City of East Grand Forks, Minnesota, according to the official plat thereof on file and of record in the office of the County Recorder in and for the County of Polk and State of Minnesota,

EXCEPT:

That part of Lot 9, Block 3 of Riverview 3rd Addition to the City of East Grand Forks, Minnesota according to the plat thereof on file and of record in the office of the County Recorder, Polk County, Minnesota described as follows: Commencing at the southeasterly corner of said Lot 9, thence northwesterly along the southerly line of said Lot 9 having a grid bearing of North 72 degrees 55 minutes 55 seconds West a distance of 194.61 feet to the point of beginning; thence continuing North 72 degrees 55 minutes 55 seconds West along said southerly line a distance of 166.33 feet to the southwesterly corner of said Lot 9; thence North 24 degrees 36 minutes 24 seconds East along the westerly line of said Lot 9 a distance of 274.14 feet to the northwesterly corner of said Lot 9; thence South 42 degrees 04 minutes 50 seconds East along the northerly line of said Lot 9 a distance of 220.33 feet; thence southwesterly a distance of 172.72 feet along a curve not tangent to the last described line concave to the southeast having a radius of 250.00 feet and a central angle 39 degrees 35 minutes 06 seconds and the chord of said curve bears south 37 degrees 23 minutes 09 seconds West to the point of beginning.

83 2984

Issued By Agent:

Grand Forks Abstract & Title Company

2650 32nd Avenue South, Suite C - P.O. Box 6326

Grand Forks, North Dakota 58206-6326

(701) 772-3484

[Handwritten signature]

585860

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charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender

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may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

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15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

21. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the

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9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

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Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the power of sale, Lender shall cause a copy of a notice of sale to be served upon any person in possession of the Property. Lender shall publish a notice of sale, and the Property shall be sold at public auction in the manner prescribed by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

22. Release. Upon payment of all sums secured by this Security Instrument, Lender shall discharge this Security Instrument to Borrower. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under applicable law.

23. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

24. Interest on Advances. The interest rate on advances made by Lender under paragraph 7 shall not exceed the maximum rate allowed by applicable law.

25. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

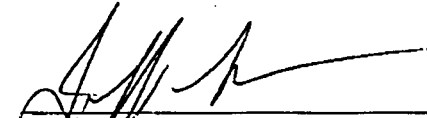
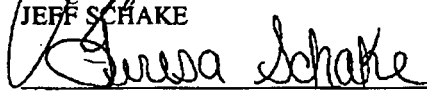
- ☒ Adjustable Rate Rider
☐ Graduated Payment Rider
☐ Balloon Rider
☐ VA Rider

- ☐ Condominium Rider
☐ Planned Unit Development Rider
☐ Rate Improvement Rider
☐ Other(s) [specify]

- ☐ 1-4 Family Rider
☐ Biweekly Payment Rider
☐ Second Home Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

_____		_____ (Seal)
_____	JEFF SCHAKE	_____ -Borrower
_____		_____ (Seal)
_____		_____ -Borrower
_____ (Seal)	_____ (Seal)	
_____ -Borrower	_____ -Borrower	
_____ (Seal)	_____ (Seal)	
_____ -Borrower	_____ -Borrower	
_____ (Seal)	_____ (Seal)	
_____ -Borrower	_____ -Borrower	

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NORTH DAKOTA
STATE OF ~~MINNESOTA~~,

GRAND FORKS

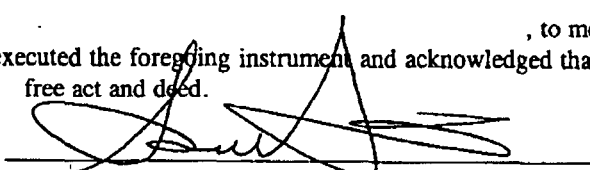
County ss:

On this 14th day of August, 2001, before me appeared

Jeff Schake and Theresa Schake, husband and wife

personally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that
executed the same as free act and deed.

SUE HILDREMYR
NOTARY PUBLIC
STATE OF NORTH DAKOTA
My Commission Expires June 25, 2003


Notary Public
My Commission Expires:

This instrument was drafted by

Tax statements for the real property described in this instrument should be sent to:

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Loan No. 9788969-30833

FIXED/ADJUSTABLE RATE RIDER (LIBOR Index - Rate Caps)

THIS FIXED/ADJUSTABLE RATE RIDER is made on this **14th** day of **August**, **2001**, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to :

LONG BEACH MORTGAGE COMPANY

(the "Lender") of the same date and covering the property described in the Security Instrument and located at:

**1601 SE 8TH STREET
EAST GRAND FORKS, MN 56721**

[Property Address]

THE NOTE PROVIDES FOR A CHANGE IN THE BORROWER'S FIXED INTEREST RATE AND TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT THE BORROWER'S ADJUSTABLE RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial fixed interest rate of **11.250 %**. The Note also provides for a change in the initial fixed rate to an adjustable interest rate, as follows:

1. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(a) Change Dates

The initial fixed interest rate will change to an adjustable interest rate on the first day of **September**, **2004**, and on the first day of the month every 6th month thereafter. Each date on which the adjustable interest rate could change is called a "Change Date."

(b) The Index

Beginning with the first Change Date, the interest rate will be based on an Index. The "Index" is the average of the London interbank offered rates for six month dollar deposits in the London market based on quotations at five major banks ("LIBOR"), as set forth in the "Money Rates" section of *The Wall Street Journal*, or if the Money Rates section ceases to be published or becomes unavailable for any reason, then as set forth in a comparable publication selected by the Lender. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

(c) Calculation of Changes

Before each Change Date, the Lender will calculate my new interest rate by adding **Five and Three Fourths** percentage point(s) (**5.750 %**) to the Current Index. The Lender will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 1(d) on the following page, this rounded amount will be the new interest rate until the next Change Date.

Fixed/Adjustable Rate Rider - Libor



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ELECTRONIC LASER FORMS, INC. - (800)327-0545

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Loan No. 9788969-30833

The Lender will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal balance as of the Change Date in full on the Maturity Date at the new interest rate in substantially equal payments. The result of this calculation will be the new monthly payment.

(d) Limits on Interest Rate Changes

The interest rate at the first Change Date will not be greater than **14.250** % or less than **11.250** %. Thereafter, the adjustable interest rate will never be increased or decreased on any single Change Date by more than **One** percentage points (**1.000** %) from the rate of interest applicable during the preceding 6 months. The adjustable interest rate will never be greater than **17.250** %, which is called the "Maximum Rate" or less than **11.250** % which is called the "Minimum Rate".

(e) Effective Date of Changes

Each new adjustable interest rate will become effective on each Change Date. The amount of each new monthly payment will be due and payable on the first monthly payment date after the Change Date until the amount of the monthly payment changes again.

(f) Notice of Changes

The Lender will deliver or mail a notice of any changes in the adjustable interest rate and the amount of the new monthly payment to the Borrower before the effective date of any change. The notice will include information required by law to be given to the Borrower and also the title and telephone number of a person who will answer any questions regarding the notice.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 17 of the Security Instrument provides as follows:


Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 17 of the Security Instrument contained in Section B(1) above shall then cease to be in effect, and Uniform Covenant 17 of the Security Instrument shall be amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if

Fixed/Adjustable Rate Rider - Libor

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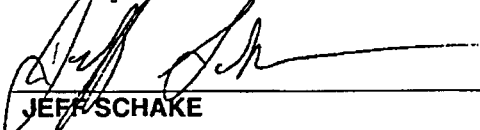
Loan No. 9788969-30833

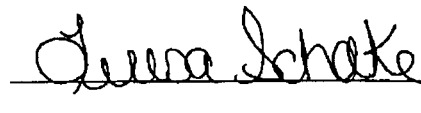
exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Fixed/Adjustable Rate Rider.


JEFF SCHAKE (Seal)
-Borrower


Jenna Schake (Seal)
-Borrower


(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]

UNIT 3 TOACADA 2001 QVAGD
8NCA WOE OR
0700-00000 00 200001 00000

Fixed/Adjustable Rate Rider - Libor

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DATE 5-7-04
EXEMPT FROM REGISTRATION TAX
Gerald J. Amiot
COUNTY AUDITOR-TREASURER *cg*

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613118

POLK COUNTY RECORDER
POLK COUNTY, MINNESOTA

I hereby certify that within instrument was filed in
this office for record on the 7 day of May A.D.
2004 9 o'clock AM and duly
recorded as Dec. # 613118

Marlene Hanson
MARLENE HANSON, County Recorder

By _____ Deputy

McNernane, Conlin
St Paul *CR 185240*

Loan No. 0044198976

ASSIGNMENT OF MORTGAGE

Dated: April 29, 2004.

FOR VALUABLE CONSIDERATION, Long Beach Mortgage Company, which is organized and existing under the laws of the State of Delaware, whose address is 1100 Town & County Road, Orange, California, 92868, hereby sells, assigns and transfers to Wachovia Bank, N.A., (formerly known as First Union National Bank), as Trustee for Long Beach Mortgage Loan Trust 2001-4, whose address is c/o Washington Mutual Bank, FA, P.O. Box 1083, Northridge, California, 91328, the Assignor's interest in the Mortgage dated August 14, 2001, executed by Jeff Schake and Theresa Schake, husband and wife, as Mortgagors, to Long Beach Mortgage Company, as Mortgagee, and filed for record August 20, 2001, as Document No. 585860 in the office of the County Recorder of Polk County, Minnesota, together with all right and interest in the note and obligations therein specified and the debt thereby secured.

ASSIGNOR:

LONG BEACH MORTGAGE COMPANY

By *[Signature]*
CARRIE CASADINE
Its *VP*

290k3 Riverview 3rd Egt
83-2984

EXHIBIT *C*

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613118

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

Rachelle Contreras

On April 29, 2004, 2004, before me, ~~Carrie Cascone~~, personally appeared Vice President Carrie Cascone, personally known to me/~~proved~~ to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that ~~he~~/she executed the same in ~~his~~/her authorized capacity, and that by ~~his~~/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.


Notary Public



THIS INSTRUMENT WAS DRAFTED BY
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
SIXTH DIVISION

In Re:

Chapter 7
Bky. Case No. 04-61024 DDO

Jeffery Howard Schake, fdba
Sudden Impact Auto Body, and
Teresa Ilene Schake,

MEMORANDUM OF FACTS AND LAW

Debtors.

Wachovia Bank, N.A., formerly known as First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust 2001-4 ("Wachovia"), by its undersigned attorney, submits this Memorandum of Facts and Law in support of its motion for relief from the automatic stay under 11 U.S.C. §362(d).

FACTS

Debtors commenced this Chapter 7 case on August 30, 2004. Wachovia holds a valid, duly recorded mortgage on real property owned by Debtors. Debtors have defaulted in the payment of the subject promissory note and mortgage by failing to make the monthly payments due from and after November 1, 2003, totaling \$26,149.99 as of September 28, 2004. The total amount due and owing under the promissory note and mortgage, as of September 28, 2004, is \$169,608.57. There is also a second mortgage against the property which has an approximate balance due of \$15,000.00. The fair market value of the subject property is \$180,000.00.

Wachovia seeks relief from the automatic stay under 11 U.S.C. §362(d) which provides in pertinent part as follows:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay -

- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest.

11 U.S.C. §362(d) (West 1991). A party requesting relief from the automatic stay in a Chapter 7 case must demonstrate that the following elements are present:

- (1) the existence of the underlying debt and the lien (including proper perfection or recordation); **and**
- (2) the existence of "cause" under Section 362(d)(1) for stay relief, including lack of adequate protection.

11 U.S.C. §362(d). See First Federal Savings and Loan Association of Minneapolis v. Whitebread (In re Whitebread), 18 B.R. 192 (Borty. D. Minn. 1982). See generally In re Occasion, 97 B.R. 825 (Borty. E.D. Pa. 1989); In re German, 45 B.R. 574 (Borty. Iowa 1984). The party moving for stay relief has the burden of proof on the issues of the amount of debt and the validity of the underlying lien. 11 U.S.C. §362(g)(1). The debtor or other party responding to the motion for stay relief has the burden of proof on the issues of lack of cause and existence of adequate protection. 11 U.S.C. §362(g)(2).

The Debtors in this case have failed to make the payments required by the subject promissory note and mortgage. Debtors have not otherwise provided Wachovia with adequate protection of its interest in the subject property. Such circumstances constitute "cause" within the meaning of §362(d)(1), justifying relief from the automatic stay. Whitebread, 18 B.R. at 193 (debtors failed to maintain their mortgage payments due after filing). In this case, there is an additional basis for relief from the stay: Debtors do not have any equity in the subject property. 11 U.S.C. §362(d)(2)(A).

Wachovia respectfully requests this Court to enter an order pursuant to 11 U.S.C. §362(d) granting it relief from the automatic stay so that it may foreclose the above described mortgage granted to it.

Dated: September 14, 2004.

MURNANE, CONLIN, WHITE & BRANDT
PROFESSIONAL ASSOCIATION
Attorneys for Movant

By /e/ Ricardo Figueroa
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
SIXTH DIVISION

In Re:

Jeffery Howard Schake, fdba
Sudden Impact Auto Body, and
Teresa Ilene Schake,

Debtors.

Chapter 7

Bky. Case No. 04-61024 DDO

**UNSWORN DECLARATION FOR
PROOF OF SERVICE**

Renee A. Andreotti, employed by Murnane, Conlin, White & Brandt Professional Association, attorneys licensed to practice law in this Court, with the office address of 444 Cedar Street, Suite 1800, St. Paul, Minnesota, 55101, declare that on September 14, 2004, I served the annexed Notice of Hearing and Motion for Relief from the Automatic Stay, Memorandum of Facts and Law, and proposed Order on each of the parties named below by mailing to each of them copies thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

JEFFERY HOWARD SCHAKE
1601 EIGHTH STREET SE
EAST GRAND FORKS MN 56721

TERESA ILENE SCHAKE
1601 EIGHTH STREET SE
EAST GRAND FORKS MN 56721

THOMAS V OMDAHL
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424 DEMERS AVENUE
GRAND FORKS ND 58203

DAVID G VELDE
TRUSTEE
1118 BROADWAY
ALEXANDRIA MN 56308

UNITED STATES TRUSTEE
1015 US COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

DAVID A BESTE
11529 EAST MOVIL LAKE ROAD
BEMIDJI MN 56601

GERAD C PAUL
ATTORNEY AT LAW
PO BOX 5849
GRAND FORKS ND 58206-5849

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: September 14, 2004

Signed /e/ Renee A. Andreotti
Renee A. Andreotti

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
SIXTH DIVISION

In Re:

Chapter 7

Bky. Case No. 04-61024 DDO

Jeffery Howard Schake, fdba
Sudden Impact Auto Body, and
Teresa Ilene Schake,

ORDER

Debtors.

The motion of Wachovia Bank, N.A., formerly known as First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust 2001-4, for an Order for relief from the automatic stay came on for hearing before the undersigned, one of the Judges of the above named Court, on September 28, 2004. Ricardo Figueroa, Esq., appeared for and on behalf of the moving party herein. Other appearances were duly noted.

Based on the arguments of counsel, all the files, records, and proceedings herein, the Court's being advised in the premises, and the Court's findings of fact and conclusions of law, if any, having been stated orally and read in open court following the close of evidence,

IT IS HEREBY ORDERED:

The automatic stay in the above-referenced matter is hereby modified to permit Wachovia Bank, N.A., formerly known as First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust 2001-4, its successors or assigns in interest, to foreclose any and all interests it has in the Debtors' real property located in Polk County, Minnesota, and legally described as follows:

Lot 9, Block 3, Riverview Third Addition to the City of East Grand Forks, Minnesota, EXCEPT that part of Lot 9, Block 3 of Riverview 3rd Addition to the City of East Grand Forks, Minnesota according to the plat thereof on file and of record in the office of the County Recorder, Polk County, Minnesota described as follows: Commencing at the southeasterly corner of said Lot 9, thence northwesterly along the southerly line of said Lot 9 having a grid bearing of North 72 degrees 55 minutes 55 seconds West a distance of 194.61 feet to the point of beginning; thence continuing North 72 degrees 55 minutes 55 seconds West along said southerly line a distance of 166.33 feet to the southwesterly corner of said Lot 9; thence North 24 degrees 36 minutes 24 seconds East along the westerly line of said Lot 9 a distance of 274.14 feet to the northwesterly corner of said Lot 9; thence South 42 degrees 04 minutes 50 seconds East along the northerly line of said Lot 9 a distance of 220.33 feet; thence southwesterly a distance of 172.72 feet along a curve not tangent to the last described line concave to the southeast having a radius of 250.00 feet and a central angle 39 degrees 35 minutes 06 seconds and the chord of said curve bears south 37 degrees 23 minutes 09 seconds West to the point of beginning.

Notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3), this Order is effective immediately.

DATED: September _____, 2004.

BY THE COURT:

THE HONORABLE DENNIS D. O'BRIEN
JUDGE OF UNITED STATES BANKRUPTCY COURT